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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,469	02/04/2002	Patrick Alexandre	111504	1617

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Oliff & Berridge
PO Box 19928
Alexandria, VA 22320

EXAMINER

WILLIAMS, CATHERINE SERKE

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 03/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/018,469

Applicant(s)

ALEXANDRE ET AL.

Examiner

Catherine S. Williams

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-10 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,6,8 and 10 is/are rejected.
- 7) ☒ Claim(s) 4,9 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Drawings

The drawings filed 7/22/04 are objected to under 35 U.S.C. 132(a) because they introduce new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

1. Figure 2 introduces new matter in showing the cavity partially filled with active principle. The original disclosure mentions on pages 6 to 7 that the active principle preferably fills the entire cavity until it is flush with the plane part of the downstream face. The disclosure does not provide support for the partially filled configuration in figure 2.
2. Figure 3 introduces new matter in showing three cavities that are partially filled with the active principle. The original disclosure only mentions that there is at least one cavity but does not support three cavities or the arrangement of three cavities within the barrier.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-3,5,8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Sanford et al. (USPN 4,945,050). Sanford discloses a propelling system (trigger and explosive charge) including a shock wave generating device (55), an application guide (54) and a barrier (50) with a blind cavity (53) accommodating an active principle (52). See figures 8a-8b and 8:52+. As shown in figure 8a, the upstream face of the barrier is in contact with the shock wave generator (55). The application guide includes a shock absorbing system (58).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sanford. Sanford meets the claim limitations as described above but fails to include a plurality of cavities being distributed on the downstream face of the barrier.

At the time of the invention, it would have been an obvious design choice by one skilled in the art to incorporate more than one cavity into the barrier. Applicant has not disclosed that more than one cavity solves a particular problem, is used for a particular purpose or provides an advantage. Furthermore, one skilled in the art would have incorporated more than one cavity as an obvious way to administer a larger dose of active agent to the patient. One would expect a barrier with one cavity and a barrier with more than one cavity to perform equally well with the

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multiple cavity barrier delivering a larger quantity of active agent in order to reduce the number of times the patient would need to be injected with the principle to achieve a larger dose.

Response to Arguments

Applicant's arguments regarding the drawings filed 7/22/05 have been fully considered but they are not persuasive. Applicant states that the drawings were submitted to overcome objections under 37 C.F.R. §1.83 and to meet 37 C.F.R. §1.83 requirements. However, the new drawings (figures 2 and 3) do not meet 37 C.F.R. §1.83 because they introduce new matter into the application. See objection above. Specifically, the partially filled cavity of figure 2 is not supported by the disclosure. Conversely, the original specification teaches a cavity entirely filled until it is flush with the plane part of the downstream face. See pages 6-7 of the specification. Also, figure 3 shows three cavities in the barrier which is not supported by the original disclosure since three cavities are never presented. Only at least one cavity is ever disclosed.

If applicant believes that the features above are still supported by the original disclosure of the application, the examiner requests that specific pages and lines of the specification be cited to support their argument.

Applicant's arguments with respect to the claims filed 9/14/05 have been considered but are moot in view of the new ground(s) of rejection.

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Allowable Subject Matter

Claims 4,9 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine S. Williams whose telephone number is 571-272-4970. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas D. Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Catherine S. Williams
March 20, 2006

Approved
3/20/06

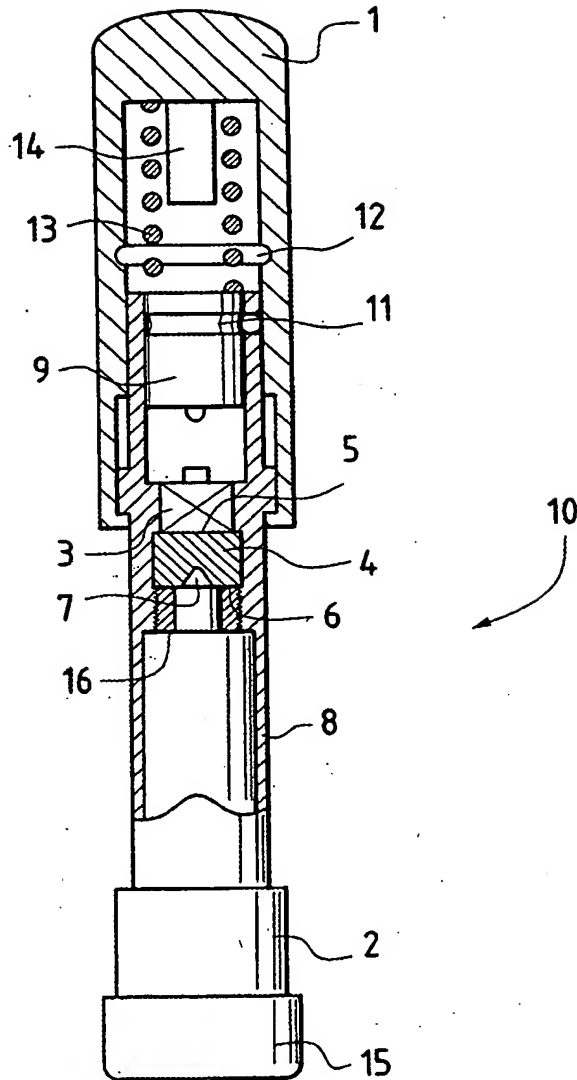


FIG.1